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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/362,631	07/21/1999	RONALD J. MOSSO	N19.12-0020	7098

24113 7590 05/02/2002

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EXAMINER

MAYEKAR, KISHOR

ART UNIT	PAPER NUMBER
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1741

DATE MAILED: 05/02/2002

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/362,631**

Applicant(s)  
**Mosso et al.**

Examiner  
**Kishor Mayekar**

Art Unit  
**1741**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 8, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-27 and 52-64 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-27 and 52-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102 and § 103*

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 20-22, 54, 55, 63 and 64 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 61-67836, a reference cited in previous office action. See the 1st and 3rd paragraphs in page 4 of the full translation of the Japanese reference provided by Applicant in the amendment of August 8, 2001. Also, see the admission by Applicant in the last paragraph of page 6 of the amendment of February 8, 2002 of which it states that "The JP application teaches that a plurality of independent reactant streams that can be used to produce multiple reactants within a single reaction chamber".

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3. Claims 23, 25-27, 52, 53, 58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '836. The difference between the Japanese reference as applied above and the instant claims is the provision of plurality of reaction. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the reference's teachings because the motivation to make elements separable was held to have been obvious, *In re Dulberg* 129 USPQ 148.

As to the subject matter of claims 58 and 59, "changes of size, degree, shape proportion, and sequence of adding ingredients" have been held to be obvious, *In re Rose* 105 USPQ 237; *In re Aller* 105 USPQ 233; *In re Dailey* 149 USPQ 47; *In re Reese* 129 USPQ 402; *In re Gibson* 5 USPQ 230.

4. Claims 24, 56, 57, and 60-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '836 as applied to claims 23 and 25-27 above, and further in view of BEATY et al. (5,194,128), another reference cited in previous Office action. The reference further discloses that the reference's invention has the ability to

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manufacture with different particle sizes and composition besides a single type of powder (see page 3 of the full translation). The difference between the reference and the instant claim is the provision of the recited manifold. BEATY shows the sequential deposition of manufactured particles from individual sources or combinations of particles prior to collection (col. 6, lines 49-66 and Fig. 5). The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the reference's teachings as suggested by BEATY because it has been held that the motivation to make a specific structure is always related to the properties or uses one skilled in the art would expect the structure to have, *In re Newell* 13 USPO 1248, *Fromson v. Advance Offset Plate* 225 USPO 26, *In re Gyurik* 201 USPO 552 and further because this would result in collecting manufactured particles from different individual sources.

### ***Response to Arguments***

5. Applicant's arguments filed 02/08/02 have been fully considered but they are

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not persuasive in view of the new grounds of rejections as set forth above.

Further to the argument on the combined teachings of the Japanese reference and BEATY for combined different types of technology, the Examiner finds this to be unpersuasive because both references are directed to particle production system and because of the rejections as set forth in the paragraphs above.

### *Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

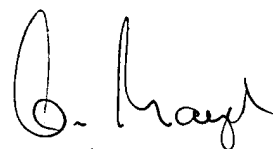
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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kishor Mayekar whose telephone number is (703) 308-0477. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathryn Gorgos, can be reached on (703) 308-3328. The fax phone number for this Group is (703) 872-9310 (non-after finals) or 872-9311 (after final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Kishor Mayekar  
Primary Examiner  
Group 1700

KM

May 1, 2002